

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Leroy Leftwich, trustee of the statutory
class of next of kin to Cameron Leftwich,
decedent,

Civ. No. 18-1144 (JNE/BRT)

Plaintiff,

ORDER

v.

County of Dakota et al.,

Defendants.

The Court is in receipt of Plaintiff's supplemental brief in support of his motion to amend. (Doc. No. 45, Pl.'s Supp. Br.) Plaintiff states the following: "Defendants failed to raise any issue of prejudice or futility in their opposition briefs, and therefore this argument has been waived." (*Id.* at 19.) This Court wishes to clarify that it has not ruled that issues of prejudice or futility are waived. This Court permitted additional briefing to both sides. Indeed, these new submissions were allowed because Plaintiff sought to raise arguments at the hearing that were not presented in his original filings. Defendants explained that they did not address futility or prejudice due to Plaintiff's deficient submission. Plaintiff, over Defendants' objections, was permitted to present a supplemental brief. Defendant now has the opportunity to respond to Plaintiff's motion and is not precluded from making any applicable arguments.

Date: February 6, 2018.

s/ Becky R. Thorson

BECKY R. THORSON

United States Magistrate Judge